



ermont Fair Housing News

A Publication of

Vermont Human Rights Commission 14-16 Baldwin Street • Montpelier, VT 05633-6301 Fair Housing Project of CVOEO
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Service Animals - Assistance Animals -Emotional Support Animals - Therapy Animals -Guide Dogs - Miniature Ponies - Pets

What does it all mean to Fair Housing?

Do you know the full story about requests for animals in rental units? A tenant's request for an assistance animal because of a disability can raise many questions for landlords and property owners, especially when the owner has a "no pet" rule. The Vermont Human Rights Commission (HRC) receives a number of housing discrimination complaints each year regarding animals in rental units. Hopefully this article will help clarify a landlord's or a property manager's responsibilities regarding "assistance animals" and a tenant's rights and responsibilities regarding this matter.

The Americans with Disabilities Act Amendments Act of 2008 (ADAAA) went into effect on January 1, 2009. The ADAAA regulations became effective March 15, 2011. The new regulations are of interest to housing providers and tenants because the regulations articulate a clear distinction between "service animals" in public accommodations (stores, restaurants, theatres, etc.) and "assistance animals" within housing settings. In the past, many tenants and housing providers have mistakenly interchanged the words "service animals" and "assistance animals" and the laws that apply to these animals.

"Service animal" is a term used under the ADAAA. It refers to a dog (or miniature horse)¹ that has been "individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or mental disability."² The work or task performed by the animal must be directly related to the individual's disability. The regulations state that if a dog provides emotional support, well-being, comfort, or companionship it **does not** constitute "work" or a "task" for the purposes of this definition and therefore is not a "service animal."³ These new restrictions under the ADAAA **do not** apply to housing situations.

A service animal is an assistance animal, but an assistance animal is not necessarily a service animal.



Assistance Animals as a Reasonable Accommodation*

Assistance animals are not pets. They can be any animal in the home that works, provides assistance, or performs tasks for the benefit of a person with a disability, or an animal that provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals - often mistakenly referred to as "service animals," "assistant animals," "support animals," "therapy animals" or "emotional-support animals" - perform many disability-related functions, including but not limited to guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing minimal protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support.

A housing provider may not refuse to allow a person with a disability to have an assistance animal merely because the animal does not have formal training. Some, but not all, animals that assist persons with disabilities are professionally trained. Other assistance animals are trained by the owners themselves and, in some cases, no special training is required. The question is whether or not a tenant's animal provides or performs a disability-related benefit needed by the person with a disability.

A housing provider's refusal to modify or provide an exception to a "no pets" rule or policy to permit a person with a disability to use and live with an assistance animal would violate the Fair Housing Act unless:

- The animal poses a direct threat to the health or safety of others that cannot be reduced or eliminated by a reasonable accommodation,
- The animal would cause substantial physical damage to the property of others.
- 3. The presence of the assistance animal would impose an undue finan-

- cial or administrative burden on the provider, or
- 4. The presence of the assistance animal would fundamentally alter the nature of the provider's services.

The fact that a person has a disability does not automatically entitle him or her to an assistance animal. There must be a relationship between the person's disability and his or her need for the animal.

A housing provider may not require an applicant or tenant to pay a fee or a security deposit as a condition of allowing the applicant or tenant to keep the assistance animal. This is true even if the property owner charges a pet deposit. Remember an assistance animal is NOT a pet. However, if the individual's assistance animal causes damage to the applicant's unit or the common areas of the dwelling, at that time the housing provider may charge the individual for the cost of repairing the damage if the provider regularly charges tenants for any damage they cause to the premises.

For general information regarding reasonable accommodation requests for assistance animals see the Department of Justice's and Department of Housing and Urban Development's Joint Statement on Reasonable Accommodations under the Fair Housing Act at http://www.hud.gov/offices/fheo/library/huddojstatement.pdf.

End Notes:

- ¹Note that under ADAAA only dogs and occasionally miniature horses can be "service animals."
- ² ADAAA Regulations 28CFR Part 36 Section 36.104
- ³ The result of the ADAAA regulations is that emotional support animals are no longer considered service animals and can therefore be prohibited in places of public accommodations.
- * This portion of the article includes information from Part IV Department of Housing and Urban Development, 24 CFR Part 5 "Pet Ownership for the Elderly and Persons With Disabilities—Final Rule."

Where to Find Everything You Ever Wanted to **Know About Fair Housing!**

ON-LINE RESOURCES FOR FAIR HOUSING

There are many online resources for information about fair housing issues. Here are some useful websites that will provide you with information and instruction.

Vermont Human Rights Commission

hrc.vermont.gov

CVOEO Fair Housing Project

www.cvoeo.org

Click on HOUSING, then FAIR HOUSING PROJECT

National Fair Housing Advocate On-Line

www.fairhousing.com

News, resources, cases, statutes and a lot more information about fair housing issues across the country.

National Fair Housing Alliance

www.nationalfairhousing.org

An organization devoted to promoting fair housing laws nation-

Fair Housing Law

www.fairhousinglaw.org

A site with information about fair housing laws and enforcement resources.

National Association of Realtors Field Guide to Fair Housing

www.realtor.org/libweb.nsf/pages/fg705

A guide to fair housing specifically aimed toward realtors.

Vermont Department of Housing & Community Affairs Fair Housing Page

www.dhca.state.vt.us/Housing/fairhousing.htm
A discussion of fair housing as it applies to Vermont communities and municipalities.

Department of Housing & Urban Development Office of Fair Housing & Equal Opportunity

www.hud.gov/offices/fheo/index.cfm

Connects to HUD resources about enforcement of federal fair housing laws.

Federal Fair Housing Act

www.usdoj.gov/crt/housing/title8.htm

The text of the federal Fair Housing Act.

Vermont Fair Housing & Public Accommodations Act www.leg.state.vt.us/statutes/sections.cfm?

Title=09&Chapter=139

The text of the Vermont Fair Housing & Public Accommodations Act.

Findlaw

www.findlaw.com

Findlaw is a general resource and search engine for legal issues, including civil rights issues, federal and state statutes and court

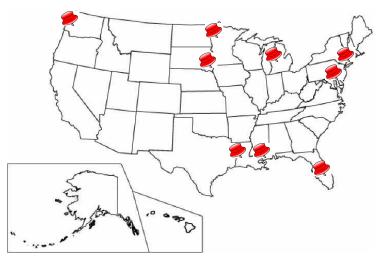
Bazelon Center for Mental Health Law

www.bazelon.org/issues/housing/index.htm

Bazelon has extensive resources and informational documents regarding aspects of mental health law, including extensive information about reasonable accommodations and service animals.

There are many other webpages for nationwide, state and local fair housing organizations. Just type "fair housing" into any search engine to locate these other resources.

Around the Nation



MINNESOTA LANDLORDS WHO REFUSED TO RENT TO BLACK WOMAN TO PAY HER \$25,000 AND ATTEND FAIR HOUSING TRAINING

Two white landlords in northwestern Minnesota refused to rent one of their properties to "those kind of people" -- namely a black woman -- and must now pay her more than \$25,000.

According to a complaint filed by the U.S. Department of Housing and Urban Development (HUD), Ranesha Halliburton, a 25-year-old black college student, answered an ad for a duplex unit for rent in Detroit Lakes, Minnesota. In an initial telephone conversation, Pearl Beck, who owns the building with her son Gregory Beck, said that the residence was available. But when Ms. Halliburton arrived to see the property along with her African American boyfriend and his father, Ms. Beck said the unit was not for rent, adding, "No way. No way. It's not for rent. I can't do this. I'm not renting to these kinds of people."

The next day a white friend of Halliburton posed as a prospective renter and met Ms. Beck at the same property. The friend asked Ms. Beck whether she rented to blacks. Beck allegedly responded, "A carload of them came by the other day, but I

will keep that unit vacant or move in myself before renting to blacks." A month later, the Becks rented the same unit to a white man.

After an investigation, HUD filed a lawsuit and sought a jury trial. The parties, however, reached a settlement: the Becks paid Halliburton \$25,500, and they must cease refusing to rent property based on race. Additionally, the Becks must display fair-housing materials in all of their rental properties and include the words "Equal Housing Opportunity" in any of their advertising material. They also must attend a training program focusing on the racerelated provisions of federal, state and local fair housing laws.

After agreeing to the settlement, Gregory Beck contended that government officials "were lied to" and "want to believe the minority because that's what they represent." Beck said he and his mother have had no blacks as tenants in their many decades as landlords. "We don't see that many around here ... They don't want to come up here because it's too cold," he said.

Despite feeling "disrespected and violated" in her encounter with the Becks, Ms. Halliburton has settled into her life in northwestern Minnesota. She works as a nurse's assistant, rents a home in town and is enrolled in a local college where she is aiming for a career in occupational therapy. "I have a lot of things going on here," she stated. "I felt I'd be giving up if I went away. I've met a lot of nice people here. I have a wonderful landlord." Halliburton said she's not surprised that Gregory Beck denies mistreating her. "They just made excuses and never said that they did anything wrong," she said.

PA LANDLORDS PAY \$31,000 FOR DENYING HOUSING TO FAMILIES WITH CHILDREN

When a single mother contacted Quality Realty Associates (QRA) to inquire about a

"for rent" sign she had seen posted at a property in Bristol, Pennsylvania, she spoke with agent Vincent Quattrocchi. Mr. Quattrocchi gave the woman detailed information about the available apartment. When he asked how many people would be living with her, the woman told Mr. Quattrocchi that the apartment would be occupied by her and her seven-year-old daughter. Mr. Quattrocchi responded by saying that he preferred to rent to someone without children.

After unsuccessfully trying to find other housing, the single mother and her child moved into a shelter. Soon after, the woman sent her daughter to stay with relatives while she remained at the shelter and searched for more permanent housing. In the process of searching for housing, she called QRA and again spoke with Mr. Quattrocchi. He told her again that there was an available apartment but children were not allowed.

With the help of a local fair housing organization, the woman then filed a complaint with HUD which, in turn, charged Mr. Quattrocchi and QRA with violating the familial status provision of the federal Fair Housing Act. According to HUD's charge, Louis Quattrocchi advised HUD that in the thirty to forty years that he has managed properties, he has never rented to families with children.

In response to HUD's charge, QRA and Mr. Quattrocchi agreed to pay \$31,000 in settlement. In addition, QRA and Mr. Quattrocchi agreed to be trained in fair housing practices and to develop a written, non-discriminatory rental policy to be distributed to all current and prospective tenants.

MICHIGAN TOWN SETTLES FAIR HOUSING ZONING LAWSUIT

The Town of Dalton, Michigan, agreed to pay \$62,500 to settle a federal lawsuit which

alleged that the township discriminated against a group home serving recovering drug and alcohol users. The U.S. Justice Department had filed the lawsuit alleging that the Town had violated the federal Fair Housing Act when it denied the group home's application for a zoning permit.

Under the settlement, the township must pay \$55,000 to the owner of the group home and pay a \$7,500 fine. Additionally, township officials must obtain training in the Fair Housing Act and the Americans with Disabilities Act, and develop a written policy that will provide a process by which persons may request reasonable accommodations to the Town's zoning ordinances on the basis of disability.

After reaching the settlement, group home owner Joel Kruszynski said, "I think the township is ... more aware of discrimination laws ... so that's positive for everyone."

HUD CHARGES NEW YORK OWNER AND MANAGEMENT COMPANY WITH DISCRIMINATION

HUD has charged the owner and management company of an apartment complex in the Town of Oyster Bay, New York with violating the Fair Housing Act by denying an accessible parking space to a resident with disabilities. HUD's charge also alleges that the respondents, 4 Anchorage Lane Owners, Inc. and Total Community Management Corp., refused to modify their parking policy to accommodate the resident's request. The Fair Housing Act requires landlords to make reasonable accommodations in their rules, policies, practices, or services when needed to provide persons with disabilities an equal opportunity to use or enjoy a dwelling.

"A parking space that provides easier access to and from their residence can mean all the difference to a person with disabili-

RECENT VERMONT HRC FAIR HOUSING CASES

Since our last Fair Housing News, Fall 2010, the Vermont Human Rights Commission (HRC) has settled nine housing cases. Eight of the cases were duly filed with the U.S. Department of Housing and Urban Development and one case was a state-only charge. In addition to these nine cases, two other cases resulted in "no reasonable grounds" determinations. In cases where HRC settles a charge before an investigation has been completed, we do not use the names of the parties in our newsletter. Below are summaries of the nine cases settled since the last Fair Housing News.

Tenant v. Housing Authority

The charging party in this case alleged that she was being harassed based on her disability and her sex. She further alleged that the housing authority that manages the property refused to take appropriate action when she complained to the housing authority about the harassment. The housing authority stated that it had addressed her complaints and took steps to remedy the situation. In this settlement agreement, the housing authority agreed to dismiss its termination of tenancy action against the complainant and to actively pursue alternate housing for the male tenant who was harassing the complainant. The charging party agreed to comply with the housing authority's rules and policies.

Tenant v. Private Landlord

The charging party alleged that the owner of the apartment complex where she resided refused to allow her to have an assistance animal and evicted her when she brought her assistance dog to her apartment. The housing provider stated that he did not evict her because of the dog, but rather because she lied to him about owning a dog when she applied for the apartment. The provider agreed to pay the complainant \$350 to help cover the tenant's moving expenses and to attend fair housing training.

Section 8 Tenant v. Private Landlord

A private landlord allegedly discriminated against the charging party based on the charging party's disability. The allegation was that the housing provider refused to allow reasonable modifications to the tenant's apartment, even though the tenant was willing to pay for those modifications. In a set-tlement agreement, the landlord agreed to refund \$150 to the tenant for water use fees the tenant had paid him and to allow the modifications the tenant wanted if the tenant paid for the modifications.

Section 8 Project-Based Tenant v. Housing Authority

The charging party is a person with a disability. Her disability requires that she control the temperature of her apartment so it does not get too warm. The housing authority that she rents from told her that because of the high cost of fuel she could no longer open her windows in the winter to cool down her apartment. In past years the housing authority had granted her this reasonable accommodation. The settlement reached by the parties required the housing authority to consult a heating contractor to resolve the overheating issues in the housing complex, to allow the charging party to open her window until the heating issues are resolved and to not require that the tenant make the same reasonable accommodation request each winter.

Tenant v. Housing Authority

The charging party alleged that she was discriminated against because of the race and color of her biracial children. The children's mother charged that the housing authority allowed neighbors to call her children the "n" word and engage in other harassing actions. She alleged that the housing au-

thority did nothing in response to her many complaints about the harassment. The housing authority denied that it did nothing about the charging party's complaints. The respondents agreed to have its staff attend fair housing training and issue a Section 8 voucher to the complainant.

Tenant v. Housing Authority

The charging party, a person with a visual disability, alleged that the housing authority failed to fulfill his reasonable accommodation request. Specifically, he stated that the housing authority did not use email to communicate with him in housing-related matters as it had previously agreed to do. The director of the housing authority agreed to meet with the complainant to discuss his concerns regarding disability issues related to housing communication.

Property Owner v. Small Town

The complainant in this charge alleged that the town refused to grant his reasonable accommodation request. His mother-in-law had moved into an apartment he had added to his home. Safety concerns required that the apartment have two exits. Since his 90 year old mother-in-law uses a wheelchair to move about, the exit had to be a door that opened onto a deck area large enough to accommodate a wheelchair and a person to assist with moving the wheelchair. The charging party sought to have the town grant a variance to a setback ordinance that would allow the above-described exit. The complainant alleged that the town refused to grant his request. The parties agreed that the charging party could keep the existing deck but that he would reduce its dimensions by 2 feet and complete that work by July 1, 2011. The complainant also agreed to remove the deck in its entirety once his mother-in-law no longer resides in the apartment.

Potential Tenant v. Property Management Company

This discrimination charge was based on age and marital status. Since these two protected categories are not recognized under the federal Fair Housing Act, the alleged violation was solely a state charge. The charging party sought to rent a condo at a local ski area where he was to be employed during the winter ski season. When the manager of the property learned that the charging party was young and planned to live in the condo with several other young men, it refused to rent the unit to him. The property manager stated that the owners wanted to rent it to a family. The parties settled this charge when the respondent agreed to pay the charging party \$500 to cover extra housing costs he incurred. The management company also agreed to include a non-discrimination statement on its rental web site.

The full text of HRC reasonable grounds cases can be read at hrc.vermont.gov.

VERMONT HUMAN RIGHTS COMMISSION

The mission of the Vermont Human Rights Commission is to promote full civil and human rights in Vermont. The Commission protects people from unlawful discrimination in housing, state government employment and public accommodations. The Commission pursues its mission by:

- Enforcing laws
- Mediating disputes
- Educating the public
- Providing information and referrals
- Advancing effective public policies on human rights



Around the Nation continued from page 5...

ties' participation in daily life," stated John Trasviña, HUD Assistant Secretary for Fair Housing and Equal Opportunity. "The law may require a landlord to assign an accessible parking space if it is necessary to afford that person the same privileges of housing that others enjoy."

According to HUD's charge, the owner and manager of the apartment complex repeatedly denied a disabled tenant's requests for a reasonable accommodation in the form of an assigned accessible parking space. The resident suffers from neuropathy, a neurological disease that makes it impossible for him to walk long distances and maintain balance. Unable to reserve one of the two designated handicap parking spaces closest to the entrance, the tenant was forced to compete for an accessible space with other residents or park further away from his apartment. The owner and manager refused to accommodate his request, stating management was in full compliance with local codes for providing accessible parking for all residents.

BANK TO PAY \$30,000 TO SETTLE DISCRIMINATION COMPLAINT INVOLVING LOUISIANA BORROWER WITH DISABILITIES

After a HUD investigation, Charles Schwab Bank has agreed to a settlement. The investigation was triggered by a complaint against the bank from a woman with disabilities who said the bank rebuffed her son's attempt to submit a loan application over the phone on her behalf. The son alleged the bank advised him that it does not accept a power of attorney for "incapacitated borrowers" during the application process and refused to accept the loan information the son offered — despite the fact he had power of attorney for his mother. The Fair Housing Act makes it unlawful to have policies that discriminate or have a discrimina-

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Please contact us if you would like to:

- Receive the Vermont Fair Housing News
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tory effect against persons with disabilities.
"Lenders must ensure that their policies

"Lenders must ensure that their policies take into account the needs of all borrowers and do not discriminate against persons with disabilities," said John Trasviña, HUD Assistant Secretary for Fair Housing and Equal Opportunity. According to the voluntary agreement, Charles Schwab Bank agrees to:

- pay the borrower \$25,000, \$10,000 of which will go to St. Francis Xavier Church, as a charitable donation on behalf of the borrower;
- pay \$5,000 to the borrower's son
- permit persons with disabilities, where necessary, to use a power-of-attorney, at no additional cost
- update the mortgage education section of its website to include questions and answers regarding powers-of-attorney
- provide fair lending/fair housing training for its employees.

SOUTH DAKOTA APARTMENT EMPLOYEES FINED \$30,000 FOR RACIAL DISCRIMINATION

The U.S. Department of Justice filed a lawsuit in October 2009, alleging that a property manager and a maintenance supervisor created a racially hostile housing environment for one African-American family and two white families who associated with the African-American family while they were tenants at Lakeport Village in Sioux Falls, South Dakota. The lawsuit alleged that the property manager and maintenance supervisor used racial epithets in reference to the African-American family and in the presence of all three families, including minor children. The complaint also alleged that they retaliated against the two white families because they had become friendly with the African-American family. The retaliation took the form of verbal harassment including threats of assault and eviction. All three families eventually moved out as a result of the defendants' racially hostile and retaliatory conduct.

In March 2011, the U.S. District Court for the District of South Dakota ordered the property manager and maintenance supervisor to each pay a \$15,000 civil penalty be-

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cause of their violations of the Fair Housing Act for a total of \$30,000. The order also enjoins them from participating in the management or operation of rental housing for a three year period.

"No person or family should be discriminated against because of race, or retaliated against because of the race of their friends or relatives," said Thomas E. Perez, Assistant Attorney General for the Civil Rights Division. "The court's decision makes clear that such discrimination is unacceptable and that perpetrators will be penalized."

JUSTICE DEPARTMENT OBTAINS \$110,000 SETTLEMENT IN DISCRIMINATION LAWSUIT AGAINST WASHINGTON APARTMENT COMPLEX

The autumn 2010 issue of Fair Housing News reported that the U.S. Department of Justice had filed a lawsuit against the owner, management company and former manager of Summerhill Place Apartments, a 268-unit apartment complex in Renton, Washington. The lawsuit alleged that the defendants had violated the Fair Housing Act by discriminating against African-Americans, Hispanic Americans, Indian Americans and families with children in the rental of apartments.

In March 2011, the Justice Department obtained a settlement from the defendants. The terms of the settlement require the defendants to:

- Pay \$85,000 to tenants and prospective tenants who were harmed by the discriminatory practices alleged in the lawsuit;
- Pay \$25,000 to the government as a civil penalty;
- Maintain a common recreational area for all their tenants, including children;
- Provide fair housing training to their employees; and
- Develop and maintain non-discrimination policies at Summerhill.

TWO BLIND WOMEN WIN FLORIDA DISABILITY DISCRIMINATION SUIT

When Amber Herrin and Rebecca Hesselmeyer inquired in June 2009 about a \$599-a-month, second-floor apartment at the Vanessa Apartments, an employee voiced concerns to the women about potential safety risks, maintaining the insurance company would not allow it because the blind women living alone would be a potential liability. An apartment manager later recommended a first-floor apartment at one of the other complexes her family owned because no first-floor units were available at the Vanessa Apartments. According to an attorney for the Vanessa Apartments, the apartment employees were concerned about the potential safety of the two blind women and assumed they might need assistance going up and down the stairs.

The jury found the owner and managers of the Vanessa Apartments either refused or discouraged the women from renting the second-story apartment because of their "handicapped status." Compensatory and punitive damages totaled \$2,787.50 for each plaintiff.

MISSISSIPPI HOUSING COMPANY SETTLES AFTER HUD INVESTIGATION SHOWS DISCRIMINATION AGAINST HOUSEHOLD WITH CHILDREN

In September 2009, members of a house-hold complained to HUD that they had been discriminated against because of the number of children in their family. They alleged that when they met with a leasing agent at Ocean Estates II in Gautier, Mississippi, the agent asked how many persons were in the house-hold. The complainants alleged that the agent denied them the opportunity to complete the application when they said that

their family was comprised of two adults and six children. The Fair Housing Act makes it unlawful to have policies that discriminate or have a discriminatory effect against families with children.

According to the voluntary agreement, the owners of Ocean Estates II agreed to:

- pay \$5,000 to Complainants
- place them at the top of the waiting list if they meet all other eligibility requirements for their housing
- ensure its tenant selection policy is in full compliance with the federal Fair Housing Act
- ensure that employees are aware of their responsibilities under the Act.



HUD ISSUES GUIDANCE, DRAFTS REGULATIONS REGARDING LGBT PEOPLE

In 2010, HUD provided guidance to its staff on how to more effectively address inquiries from lesbian, gay, bisexual and transgender individuals regarding housing discrimination issues. According to the guidance, although the federal Fair Housing Act does not specifically include sexual orientation and gender identity as protected categories, a person's experience with sexual orientation or gender identity housing discrimination may still be covered by other protected categories within the Fair Housing Act. The guidance provided two examples:

- A gay man is evicted because his landlord believes he will infect other tenants with HIV/ AIDS. That situation may constitute illegal disability discrimination because the man is perceived to have a disability, HIV/AIDS.
- A property manager refuses to rent an apartment to a prospective tenant who is transgender. If the housing denial is because of the prospective tenant's non-conformity with gender stereotypes, it may constitute illegal discrimination on the basis of sex.

In April 2001, HUD launched a new media campaign, "Live Free," that strives to ensure that people have equal access to housing regardless of sexual orientation and gender identity.

Additionally, HUD is currently finalizing a proposed federal rule to ensure that HUD housing and programs are open to all, irrespective of marital status, gender identify, and sexual orientation.

You can find the 2010 HUD Guidance on the internet at http://portal.hud.gov/hudportal/HUD?src=/program offices/fair housing equal opp/LGBT Housing Discrimination

You can find HUD's press release about its media campaign at http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2011/HUDNo.11-053

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